

**INTHEUNITEDSTATESDISTRICTCOURT
FORTHEEASTERNDISTRICTOFPENNSYLVANIA**

CLARKetal.	:	CIVILACTION
	:	
v.	:	
	:	
CASINODELIetal.	:	NO.02-1013

MEMORANDUMANDORDER

OnFebruary27,2002,RobertClarkandA.D.A.ACCESS TODAY (“Plaintiffs”)fileda ComplaintallegingviolationsofTitleIIIoftheAmericanswithDisabilitiesActof1990.Casino Deli,ManuelRosenandBarbaraRosen(“Defendants”)returnedexecutedWaiersofFormal ServicedatedMay16,2002,whichwerefiledonJune3,2002.DefendantsweregivenuntilJuly 15,2002tofileanAnswertotheComplaint,whichtimehasexpiredwithoutanAppearanceor anAnswer.

OnJuly25,2002,PlaintiffsfiledaMotionforDefaultJudgment.Althoughentryof defaultisaprerequisite tooobtainingadefaultjudgmentunderFederalRuleofCivilProcedure 55(b)(1)or55(b)(2),nodefaulthasbeenenteredinthiscasebecausePlaintiffshavenotfiledany applicationwiththeClerkoftheCourtforentryofdefault.10AW RIGHT, MILLER & KANE, FEDERAL PRACTICEAND PROCEDURE: CIVIL 3D §2682(1998).

Accordingly,providedPlaintiffssecuretheentryofdefaultpriortoAugust21,2002,the CourtwillholdanevidentiaryhearingonPlaintiffs’MotionforDefaultJudgmentonAugust21, 2002at10a.m.inCourtroom4Btodeterminedamagesandrequestsforotherrelief.Plaintiffs shallserveacopyofthisMemorandumandOrder,theirMotionforDefaultJudgmentandany relateddocumentsonDefendantswithinseven(7)daysandPlaintiffsshallfileproofofsuch

servicewiththisCourt.

ANDNOW,this31stdayofJuly,2002,itisORDEREDthat:

1. AnevidentiaryhearingonPlaintiffs'MotionforDefaultJudgmentisscheduled forAugust21,2002at10a.m.inCourtroom4Btodeterminedamagesandrequestsforother relief;
2. PlaintiffsserveacopyofthisMemorandumandOrder,theirMotionforDefault JudgmentandanyrelateddocumentsonDefendantswithinseven(7)days;and
3. PlaintiffsfileproofofsuchservicewiththisCourt.

BYTHECOURT:

MICHAELM.BAYLSON,J.

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